

Message Text

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PAGE 01 PARIS 16021 201056Z
ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 INR-10 NSAE-00 FAA-00 L-03 SS-15
NSC-05 PA-01 ICA-11 /068 W
-----059527 202023Z /63

R 191803Z MAY 78
FM AMEMBASSY PARIS
TO SECSTATE WASHDC 1814
INFO AMEMBASSY BONN
AMEMBASSY BERN
AMEMBASSY LONDON
FAA BRUSSELS

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E. O. 11652:N/A
TAGS: EAIR, FR
SUBJECT: PAN AM CHANGE OF GAUGE

REF: STATE 124818

1.
PANAM DIRECTOR FOR FRANCE (COMMEAU), ACCOMPANIED BY
NEW YORK BASED ASSISTANT GENERAL COUNSEL (CODY),
VISITED EMBASSY MAY 18 TO ADVISE THAT PANAM HAD FILED
SUIT IN CONSEIL D'ETAT AGAINST DGAC MARCH ACTION DIS-
APPROVING PROPOSED SERVICE INVOLVING CHANGE OF
GAUGE. ACCORDING TO CODY SUIT CHARGES THAT DGAC HAD
ACTED ULTRA VIRES AND HAD COMMITTED AN ABUSE OF POWER
IN REFUSING TO APPROVE CARRIER'S PROPOSED OPERATION
WHICH IS CONSISTENT WITH THE AIR TRANSPORT AGREEMENT.
SUIT WILL THUS PROVIDE AN OPPORTUNITY FOR TESTING OUR
INTERPRETATION OF THE AGREEMENT WITHIN THE FRAMEWORK
OF FRENCH LAW. CODY EMPHASIZED TO US THAT HE HAD BEEN
ASSURED BY FRENCH COUNSEL THAT SUIT COULD BE WITHDRAWN
AT ANY TIME IF IT APPEARED LIKELY THAT ITS PROSECUTION
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WOULD GET IN THE WAY OF DIPLOMATIC EFFORTS TO RESOLVE
THE MATTER.

2. CIVIL AIR ATTACHE LATER INFORMED CLAUDE-LAFONTAINE
AT QUAI D'ORSAY OF THIS DEVELOPMENT AND FOUND SHE WAS
NOT AWARE OF IT. HOWEVER, SHE OBSERVED THAT AIR FRANCE
AND UTA WERE ALSO PLANNING THIS WEEK TO CHALLENGE THE

CAB PART 213 ACTION IN AMERICAN COURTS, BUT SHE DID NOT HAVE ANY DETAILS. (CODY HAD PREVIOUSLY ADVISED THAT THE FRENCH CARRIERS HAD REQUESTED CAB TO RECONSIDER ITS DECISION TO REQUIRE FILING OF SCHEDULES, BUT HAD SUGGESTED TO US HIS VIEW THAT ANY COURT ACTION WOULD PROBABLY BE AFTER PRESIDENTIAL APPROVAL OF A CAB RECOMMENDATION TO CUT SCHEDULES.)

3. COMMENT: THE CONSEIL D'ETAT IS THE HIGHEST FRENCH COURT WHICH REVIEWS ADMINISTRATIVE ACTIONS OF THE GOVERNMENT FOR CONFORMITY WITH LAW. WE DO NOT PRESENTLY KNOW MUCH ABOUT THE BATTING AVERAGE OF LITIGANTS SEEKING ITS ASSISTANCE IN THIS KIND OF CASE. NEVER-

THELESS THE PANAM MOVE APPEARS A WORTHWHILE EFFORT TO EXHAUST LOCAL REMEDIES AVAILABLE TO IT.

4. ACTION REQUESTED: DEPARTMENT IS REQUESTED TO MAKE A SPECIAL EFFORT TO KEEP US UP TO DATE QUICKLY ON ALL DEVELOPMENTS IN WASHINGTON -- INCLUDING OUR REPLY TO THE FRENCH NOTE (REFTEL), FURTHER FRENCH DIPLOMATIC EFFORTS IN WASHINGTON, AND PROCEEDINGS IN THE CAB AND THE COURTS RELEVANT TO THIS CASE.
HARTMAN

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NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AIRCRAFT, AIRLINES, AMENDMENTS, AIR ROUTES
Control Number: n/a
Copy: SINGLE
Draft Date: 19 may 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978PARIS16021
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780213-0323
Format: TEL
From: PARIS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780540/aaaabhid.tel
Line Count: 86
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 003c8c9a-c288-dd11-92da-001cc4696bcc
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 STATE 124818
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2637566
Secure: OPEN
Status: NATIVE
Subject: PAN AM CHANGE OF GAUGE
TAGS: EAIR, FR, US, PANAM
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/003c8c9a-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014